

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION

ALVIN JENKINS,)
Petitioner,)
v.) Case No. CV412-031
AL ST. LAWRENCE,)
Respondent.)

REPORT AND RECOMMENDATION

Alvin Jenkins, a pre-trial detainee held at the Chatham County Detention Center while awaiting prosecution for aggravated sodomy, *see* attached state court docket sheet, petitions this Court under 28 U.S.C. § 2241, doc. 1, and moves for leave to file it in forma pauperis (IFP). Doc. 4. Jailed for some 23 months, he is unhappy with the pace of that case and insists that the state is violating his speedy trial, due process, and other rights. Doc. 1 at 1-5. He thus wants this Court to order his immediate release. *Id.* at 5 ¶ D.

The Court **GRANTS** his IFP motion (doc. 4) but concludes his petition must be dismissed. Pretrial § 2241 petitions must be exhausted.

Wilkinson v. Dotson, 544 U.S. 74, 79 (2005) (all habeas corpus actions “require a petitioner to fully exhaust state remedies”); *Thomas v. Crosby*, 371 F.3d 782, 812 (11th Cir. 2004) (Tjoflat, J., concurring) (“Among the most fundamental common law requirements of § 2241 is that petitioners must first exhaust their state court remedies.”). Georgia law

allows pretrial detainees to raise each of these types of claims either during state criminal proceedings or collaterally in a state habeas corpus action. *See Perera v. Miller*, 283 Ga. 583, 662 S.E.2d 544, 544 (Ga. 2008) (noting that criminal defendants can bring speedy trial claim and ineffective assistance of counsel claims during the course of criminal proceedings); *Jackson v. State*, 279 Ga. 449, 614 S.E.2d 781, 783–84 (Ga. 2005) (ruling on speedy trial claim and due process claim based on preindictment delay; claims initially brought in motion for a new trial and reasserted on direct appeal); *Rainwater v. Langley*, 277 Ga. 127, 587 S.E.2d 18, 19–20 (Ga. 2003) (challenging pretrial detention in state habeas petition); *Banks v. Waldrop*, 272 Ga. 475, 531 S.E.2d 708, 708 (Ga. 2000) (holding that challenge to pretrial detention based on contention of improper denial of bail is properly brought in state habeas petition); *McClure v. Hopper*, 234 Ga. 45, 214 S.E.2d 503, 506 (Ga. 1975) (holding that claim based on denial of a timely first appearance may be cognizable in habeas corpus action).

Harvey v. Corbin, 2011 WL 4369828 at * 2 (S.D. Ga. Aug. 12, 2011). As in *Harvey*, Jenkins “has not alleged, and there is nothing in the record to suggest, that he filed a state habeas petition challenging his pre-trial detention.” *Id.* Therefore, his petition should be **DISMISSED WITHOUT PREJUDICE** so that he may exhaust available state

remedies.

SO REPORTED AND RECOMMENDED, this 13th day of February, 2012.



UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF GEORGIA


CHATHAM COUNTY, GA
Eastern Judicial Circuit of Georgia
[Home](#) [Magistrate Court](#) [Probate Court](#) [State Court](#) [Superior Court](#) [Juvenile Court](#) [Court Forms](#) [Court Fees](#)

February 10, 2012

Location: [Case Details](#)Input your search... **CASE LOOKUP****Case Details****COURT FORMS****State****VS.****JENKINS, ALVIN BERNARD**[Case Events](#)[Charges](#)[Parties](#)[Proceedings](#)**COURT FEES****MAP & DIRECTIONS****JURY SERVICES****SITE SEARCH****Case Information**

Court: Superior
 Case Number: CR100899
 Case Type: AGG SODOMY
 Judge: HONORABLE MICHAEL KARPF
 Assistant District Attorney: FRANK PENNINGTON
 Date Filed: 4/14/2010
 Status: ACTIVE -
 Next Event: 2/13/2012 TRIAL DOCKET CALL

Defendant Information

Name: JENKINS, ALVIN BERNARD
 DIN: X0047269 Chatham County Sheriff X0047269
 Gender: MALE
 Race: AFRICAN AMERICAN
 Height: 67
 Weight: 170
 Eyes: BROWN
 Hair: BLACK



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[Defendant History](#)**Attorney Information**

JOHN RODMAN
 540 East Oglethorpe Ave
 SAVANNAH, GA
 31401

Bondsman Information

N/A

Case Events

Date	Time	Code	Judge	Action
2/13/2012	:09:30AM	TRIAL DOCKET CALL	MICHAEL KARPF	
11/14/2011	:09:30AM	TRIAL DOCKET CALL	MICHAEL KARPF	
9/19/2011	:09:30AM	JURY TRIAL	MICHAEL KARPF	
9/15/2011	:09:00AM	MOTION HEARING (MTH)	MICHAEL KARPF	
9/12/2011	:09:00AM	MOTION HEARING (MTH)	MICHAEL KARPF	RESCHEDULE EVENT
8/29/2011	:09:30AM	TRIAL DOCKET CALL	MICHAEL KARPF	
8/1/2011	:09:00AM	MOTION HEARING (MTH)	MICHAEL KARPF	
6/2/2011	:09:30AM	TRIAL DOCKET CALL	MICHAEL KARPF	
5/31/2011	:09:30AM	TRIAL DOCKET CALL	MICHAEL KARPF	RESCHEDULE EVENT
4/26/2011	:09:30AM	TRIAL DOCKET CALL	MICHAEL KARPF	RESCHEDULE EVENT
4/18/2011	:09:30AM	TRIAL DOCKET CALL	MICHAEL KARPF	
3/21/2011	:09:00AM	MOTION HEARING (MTH)	MICHAEL KARPF	EVENT CANCELLED - EC
11/2/2010	:09:30AM	TRIAL DOCKET CALL	MICHAEL KARPF	
6/30/2010	:09:30AM	PRETRIAL HEARING	MICHAEL KARPF	
6/29/2010	:1:30PM	PRETRIAL HEARING	MICHAEL KARPF	RESCHEDULE EVENT
5/17/2010	:1:30PM	ARRAIGNMENT/TRACKING DOCKET	MICHAEL KARPF	

[\[Return to Top\]](#)**Charges**

Charge	Description	Counts	Severity	Charge Date	Disposition
16-5-24	AGGRAVATED BATTERY	1	FELONY	2/9/2010	
16-5-40	KIDNAPPING	1	FELONY	2/9/2010	
16-6-2(AGG)	AGGRAVATED SODOMY	1	FELONY	2/9/2010	

16-5-24	AGGRAVATED BATTERY	1	FELONY	4/7/2010	
16-5-24	AGGRAVATED BATTERY	1	FELONY	4/7/2010	
16-5-21	AGGRAVATED ASSAULT	1	FELONY	4/7/2010	

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Proceedings

2/13/2012	09:30AM	TRIAL DOCKET CALL		MICHAEL KARPF	
1/5/2012		PRO SE LETTER RECEIVED AND CLERKS RESPONSE			
12/12/2011		TRANSCRIPT RECEIVED			MOTION HEARING SEPTEMBER 15,2011
12/9/2011		PRO SE MOTION			DEMURRER AND MTN TO DISMISS INDICTMENT/
11/14/2011	09:30AM	TRIAL DOCKET CALL		MICHAEL KARPF	
9/19/2011	09:30AM	JURY TRIAL		MICHAEL KARPF	
9/15/2011		ORDER			MTN TO INTRODUCE EVIDENCE OF SIMILAR TRANSACTION-GRANTED IN PART AND RULING IS WITHHELD AS TO THE SECOND PART/
9/15/2011	09:00AM	MOTION HEARING (MTH)		MICHAEL KARPF	
9/13/2011		ORDER			ORDER OF CONTINUANCE-GRANTED/
9/12/2011	09:00AM	MOTION HEARING (MTH)	RESCHEDULE EVENT	MICHAEL KARPF	
9/9/2011		NOTICE TO CLERK OF SUPERIOR COURT			
8/31/2011		MASTER LIST FOR WITNESSES			
8/31/2011		MASTER LIST FOR WITNESSES			
8/29/2011	09:30AM	TRIAL DOCKET CALL		MICHAEL KARPF	
8/1/2011	09:00AM	MOTION HEARING (MTH)		MICHAEL KARPF	
7/22/2011		PRO SE LETTER RECEIVED AND CLERKS RESPONSE			
6/24/2011		PRO SE LETTER RECEIVED			
6/9/2011		ENTRY OF APPEARANCE			JENNIFER BURNS/
6/6/2011		PRO SE LETTER RECEIVED AND CLERKS RESPONSE			
6/2/2011	09:30AM	TRIAL DOCKET CALL		MICHAEL KARPF	
5/31/2011	09:30AM	TRIAL DOCKET CALL	RESCHEDULE EVENT	MICHAEL KARPF	
5/10/2011		NOTICE TO CLERK OF SUPERIOR COURT			SEALED STATES DISCOVERY DISCLOSURE/
5/10/2011		NOTICE - OF INTENT			TO PRESENT EVIDENCE OF SIMILAR TRANSACTION AND MTN TO ALLOW SUCH EVIDENCE/NTC OF INTENT TO PROSECUTE DEFNTC OF INTENT TO IMPEACH WITH PRIOR CONVICTION/NTC OF INTENT TO OFFER EVIDENCE IN AGGRAVATION OF PUNISHMENT/
4/26/2011	09:30AM	TRIAL DOCKET CALL	RESCHEDULE EVENT	MICHAEL KARPF	
4/18/2011	09:30AM	TRIAL DOCKET CALL		MICHAEL KARPF	
4/14/2011		INDICTMENT			
4/5/2011		PRO SE LETTER RECEIVED AND CLERKS RESPONSE			
3/21/2011	09:00AM	MOTION HEARING (MTH)	EVENT CANCELLED - EC	MICHAEL KARPF	

3/15/2011		PRO SE LETTER RECEIVED AND CLERKS RESPONSE			
3/9/2011		PRO SE LETTER RECEIVED AND CLERKS RESPONSE			
2/14/2011		PRO SE LETTER RECEIVED AND CLERKS RESPONSE			
2/11/2011		CONSOLIDATED MOTIONS PACKAGE			
1/21/2011		CERTIFIED MAIL RECEIPT		DEF/	
1/19/2011		PRO SE LETTER RECEIVED AND CLERKS RESPONSE			
1/7/2011		ORDER		MTN TO STAY PROCEEDINGS-DISMISSED/	
12/28/2010		PRO SE LETTER RECEIVED			
11/12/2010		CERTIFIED MAIL RECEIPT		DEF/	
11/9/2010		PRO SE LETTER RECEIVED AND CLERKS RESPONSE			
11/2/2010	09:30AM	TRIAL DOCKET CALL		MICHAEL KARPF	
11/2/2010		PRO SE LETTER RECEIVED		MICHAEL KARPF	MTN TO STAY THE PROCEEDINGS UNTIL ISSUE OF INEFFECTIVE ASSISTANCE OF COUNSEL IS DEALT/
10/25/2010		PRO SE LETTER RECEIVED			NTC OF PET/PET FOR ASSIGNED COUNSEL TO RENDER DEF EFFECTIVE ASSIST OF COUNSEL/
9/30/2010		PRO SE LETTER RECEIVED			
8/27/2010		MOTION - MOTION TO SUPPRESS			FILED BY DEF/CERT OF SERV/
7/13/2010		PRO SE LETTER RECEIVED AND CLERKS RESPONSE			
6/30/2010	09:30AM	PRETRIAL HEARING		MICHAEL KARPF	
6/29/2010	1:30PM	PRETRIAL HEARING	RESCHEDULE EVENT	MICHAEL KARPF	
5/17/2010	1:30PM	ARRAIGNMENT/TRACKING DOCKET		MICHAEL KARPF	
5/11/2010		BENCH WARRANT EXECUTED			EXECUTED ON 100507/
5/6/2010		BENCH WARRANT ISSUED			
4/26/2010		PRO SE LETTER RECEIVED AND CLERKS RESPONSE			
4/16/2010		SCREENING			Initial Case Screening / Scanning
5:03:39 PM					

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